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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Devon A. Rolf

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EXAMINER

LANEAU, RONALD

ART UNIT

PAPER NUMBER

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/635,935

Applicant(s)

ROLF, DEVON A.

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,5-8,13,15-22,26,28-31,36,38-45,49-51,54-57,60-65,67-80,89 and 90 is/are allowed.
- 6) ☒ Claim(s) 81-88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 1, 2, 5-8, 13, 15-22, 26, 28-31, 36, 38-45, 49-51, 54-57, 60-65, 67-80-90 .

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/27/06 has been entered.

Status of Claims

2. Claims 89 and 90 are now added and claims 1, 2, 5-8, 13, 15-22, 26, 28-31, 36, 38-45, 49-51, 54-57, 60-65 and 67-90 are now pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 81-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al (US 6,144,848) in view of Nakajima (US 2006/0129504 a1).

As per claims 81-88, Walsh discloses a transmitter for transmitting voice and data via a first frequency, wherein said first radio frequency comprises a cellular frequency (fig. 1); a second transmitter, wherein said second transmitter is a short range transmitter for transmitting at least data via a second radio frequency (fig. 1) a portable housing 120 for nonremovably

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containing , in ordinary use said device, said processor, said memory, said input, said display, said microphone, said speaker, said first transmitter and said second transmitter, wherein said device is a portable cellular phone, wherein said memory has data indicative of monetary units stored therein (col. 7, lines 3-7). Walsh does not explicitly disclose a processing method but Nakajima is used to disclose a settlement processing method wherein the cashier terminal and the user terminal may have a wireless communication unit as an example of a short range communication unit, and using wireless communication for a portable terminal such as Bluetooth and sending transaction ID to each other (page 11, [0159]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the transaction system as taught by Nakajima into the system of Walsh because it would provide a new and improved system for remote item ordering by providing communication secure communications between the handheld device the POS terminal that would allow a financial transaction to take place.

Allowable Subject Matter

5. Claims 1, 2, 5-8, 13, 15-22, 26, 28-31, 36, 38-45, 49-51, 54-57, 60-65, 67-80, 89 and 90 allowed.

None of the references, either singularly or in combination, the totality of the following combined elements such as:

As per claims 1, 5-8, 13, 15-22, 26, 50, 54, 55, 62, 77, 79, 89 and 90, a device comprising: third transmitter comprised of a transponder; and portable housing that contains said processor, said memory, said input, said display, said microphone, said speaker, said first

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transmitter, said second transmitter, and said third transmitter, wherein said device comprises a portable cellular telephone and wherein, when said device is used to make a remote purchase transaction at a first point of sale terminal that is located remotely from said device, said first transmitter transmits identifying information, for use in processing said remote purchase transaction, at said cellular frequency to at least one of said first point of sale terminal and a processor associated with said first point of sale terminal and wherein, when said device is used to make a local purchase transaction at a second point of sale terminal that is located in physical proximity to said device and said second transmitter of said device is within a transmission range of said second point of sale terminal, said second transmitter wirelessly transmits identifying data, for use in making said local purchase transaction at said second point of sale terminal, via a short range wireless transmission at said second frequency to said second point of sale terminal and wherein, when said device is used to make a local buying transaction at a third point of sale terminal that is located in close physical proximity to said device and said device is in the presence of a field generated by said third point of sale terminal, said transponder, in response to the presence of the generated field, is stimulated and automatically transmits an identifier to said third point of sale terminal for use in making said buying transaction at said third point of sale terminal.

As per claims 2, 28-31, 36, 38-45, 49, 51, 56, 57, 63, 67-76, 78, 80, a device comprising:
a portable housing for housing said processor, said memory, said input, said display,

said microphone, said speaker, said first transmitter, and said second transmitter,
wherein said device comprises a portable cellular telephone and wherein, when said device is used to make a remote purchase transaction at a remote point of sale terminal that is located

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remotely from said device, said first transmitter wirelessly transmits identifying information, for use in processing said remote purchase transaction, at said cellular frequency to at least one of said first point of sale terminal and a processor associated with said first point of sale terminal and wherein, when said device is used to make a local purchase transaction at a second point of sale terminal that is located in physical proximity to said device and second said device is within a field generated at said second point of sale terminal, said transponder, in response to the presence of the generated field, is stimulated and wirelessly transmits identifying data, for use in processing said local purchase transaction, via a short range wireless transmission at said second frequency to said second point of sale terminal.

As per claims 60, 64, a third transmitter comprised of a transponder; and a portable housing for nonremovably containing, in ordinary use said device, said processor, said memory, said input, said display, said microphone, said speaker, said first transmitter said second transmitter, and said third transmitter, wherein said device is a portable cellular telephone and wherein, when said device is used to make a remote purchase transaction at a first point of sale terminal that is located remotely from said device, said first transmitter wirelessly transmits, via said first frequency, identifying information, for use in processing said remote purchase transaction, to at least one of said first point of sale terminal and a processor associated with said first point of sale terminal and wherein, when said device is used to make a local purchase transaction at a second point of sale terminal that is located in physical proximity to said device and is within a transmission range of said second point of sale terminal, said second transmitter wirelessly transmits identifying data for use in processing said local purchase transaction, at said second frequency via a short range wireless transmission to said second point of sale terminal for

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use in processing said local purchase transaction, and wherein, when said device is used to make a local buying transaction at a third point of sale terminal that is located in close physical proximity to said device and said device is in the presence of a field generated by said third point of sale terminal, said transponder, in response to the presence of the generated field, is stimulated and automatically transmits an identifier to said third point of sale terminal for use in making said buying transaction at said third point of sale terminal, wherein said cellular telephone has an associated subscriber account and an amount corresponding to at least one purchase transaction made with said cellular telephone during a defined period of time is presented on a statement corresponding to said subscriber account and said defined period of time.

As per claims 61, 65, a device comprising: a portable housing for nonremovably containing, in ordinary use of said device, said processor, said memory, said input, said display, said microphone, said speaker, said first transmitter and said second transmitter, wherein said device is a portable cellular telephone and wherein, when said device is used to make a remote purchase transaction at a first point of sale terminal that is located remotely from said device, said first transmitter wirelessly transmits, via said first frequency, identifying information, for use in processing said remote purchase transaction, to at least one of said first point of sale terminal and a processor associated with said first point of sale terminal and wherein, when said device is used to make a local purchase transaction at a second point of sale terminal that is located in physical proximity to said device and said transponder is within a field generated at said second point of sale terminal, said transponder is stimulated and, in response to the presence of the generated field, wirelessly transmits identifying information, for use in processing said local purchase transaction, at said second frequency via a short range wireless transmission to

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said second point of sale terminal for use in processing said local purchase transaction, wherein said cellular telephone has an associated subscriber account and an amount corresponding to at least one purchase transaction made with said cellular telephone during a defined period of time is presented on a statement corresponding to said subscriber account and said defined period of time.

Response to Arguments

6. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

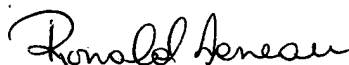
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on 7:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ronald Laneau
Primary Examiner
Art Unit 3714

2/7/07

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